IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Bail Appl..No. 4936 of 2007()

CRIME NO.809/07 OF KUNNAMKULAM POLICE STATION

PETITIONERS/ACCUSED 1 TO 4

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1. SUNIL.P.S.,
AGED 31, S/O SREEDHARAN, PARAPPUPARAMBIL HOUSE,
PARAPPUKKAVU, KECHERY POST, THALAPPILLY TALUK,
THRISSUR DISTRICT.

2. ANIL.P.S., AGED 29,
-DO-.

3. SUNIL.P.V., AGED 30 , S/O.VELAYUDHAN,
POZHANGADATH HOUSE, DO.

4. RAJAN.P.B.,
AGED 34, S/O BHASKARAN,
DO.

BY ADV. SRI.C.HARIKUMAR
SRI.VIZZY GEORGE KOKKAT
SRI.ARAVINDA KUMAR BABU T.K.

RESPONDENTS: STATE

STATE OF KERALA REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA THROUGH
SI OF POLICE, KUNNAMKULAM POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4936 OF 2007

Dated this the 17th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 to 4. They face allegations under Sec.326 read with Sec.34 of the IPC. The alleged incident took place consequent to the refusal of the de facto complainant – an autorikshaw driver, to go for a trip as requested by the accused persons. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners raises only one contention. He submits that, even if the allegations were accepted in toto, the allegation under Sec.326 of the IPC is not justified at all. That allegation has been included only to make the offence non-bailable. That course adopted by the police is not correct. The allegations, if correctly reckoned, reveal, even if totally accepted, only the offences punishable under

Secs.325 and 324 of the IPC and not Sec.326 of the IPC.

3. The learned Public Prosecutor has read over to me the First Information Statement in detail. The allegations in the First Information Statement very very clearly show that hit with hand had resulted in loss of tooth and that subsequently there was an attack with a weapon. I shall not elaborate. Suffice it to say, I find merit in the contention that the allegations would reveal only the offences under Secs.325 and 324 of the IPC – both bailable, and that there is no justification for the allegation raised under Sec.326 of the IPC. on the basis of the materials presently available. I am satisfied that the petitioners can, in these circumstances, be granted anticipatory bail.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 24/8/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 25/8/07 and thereafter on all Mondays and Fridays

between 10 a.m. and 12 noon for a period of six weeks. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 24/8/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 24/8/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge